

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	
	)	

**REPLY COMMENTS  
OF THE  
NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.**

Comments filed in this proceeding make clear that the Joint Board should not at this time recommend substantial modifications to the rules governing calculation of high cost universal service support. Current mechanisms provide specific, predictable, and sufficient support to the nation’s rural local exchange carriers (RLECs) and should be left in place, pending resolution of more fundamental questions regarding long-term universal service policies. As many parties explained in their comments, there is no need for short-term action to “fix” existing universal service rules that, in any event, may be obsolete in a few years.

Contrary to claims of some participants, high cost universal service funding mechanisms are not spiraling out of control, nor is there an urgent need to reform or replace existing embedded cost mechanisms. In particular, growth in high cost funding is not caused by uncontrolled increases in incumbent LEC (ILEC) costs, as some commenters repeatedly and erroneously claim. Actual costs of ILECs have in fact remained stable, and explain at most a fraction of recent High Cost Fund growth. Increases in support payments payable to competitive eligible telecommunications

carriers (CETCs) are far more significant—in fact, 81 cents of every “new” dollar in high cost support funding goes to (primarily wireless) CETCs.

NECA also refutes claims that existing data collection methods are insufficient to provide assurance that high cost support amounts paid to ILECs are correctly targeted and are being used for their intended purposes. ILEC high-cost data submissions are subject to multiple layers of review by company accountants, consulting firms, NECA, the Universal Service Administrative Company (USAC) and the Commission itself. Recent anecdotal claims of waste and abuse are being pursued vigorously, with literally hundreds of on-site audits planned by the Commission. Proposals to change existing review procedures, such as those advanced by CTIA, would have the perverse effect of reducing the extent to which high cost data is reviewed, and therefore should not be recommended by the Joint Board.

**I. Action on Proposed Changes to Current Support Calculation Methods Would be Premature and Risk Adverse Impacts on Universal Service.**

Virtually all commenters in this proceeding agree that existing universal service programs must be updated to recognize the significant changes that are occurring in the telecommunications marketplace. The effects of new technologies and service offerings from a variety of providers must be taken into account by the Joint Board and the Commission when considering revisions to existing support calculation methods. Despite unfounded claims to the contrary, these mechanisms have worked well in providing specific, predictable and sufficient support to the nation’s RLECs, enabling them to provide quality universal service in areas that otherwise would be unserved or underserved.

The proposals outlined in the Joint Board's *Public Notice* do little, however, to tackle the difficult questions raised by new technological, marketplace and regulatory developments, and focus instead on issues raised by the current "equal support" rules. As NECA and numerous other commenters pointed out, however, proposals to substitute current cost-based support calculation methodologies with forward-looking cost models are at best premature, since no cost model has been proposed for examination or testing.

To the extent that current equal support rules create Fund growth problems, the answer, for at least the near term, is to strengthen the ETC designation process, as outlined in comments filed in response to the Joint Board's earlier Recommended Decision in this proceeding.<sup>1</sup> Other changes to the Commission's support calculation rules should be deferred pending a much more fundamental look at universal service programs in rural areas, as well as intercarrier compensation rules generally.<sup>2</sup>

This review should take into account not only the technological, marketplace and regulatory changes that have occurred during the last decade, but also the changes and that will likely occur during the next decade, if not beyond. With this perspective in view, the Joint Board and the Commission will truly be in a position to craft policies and rules that ensure the continued maintenance and achievement of universal service over the long term.<sup>3</sup>

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<sup>1</sup> See, e.g., Comments of USTA (Aug. 6, 2004) at 7, Comments of NECA (Aug. 6, 2004) at 18, and Comments of NTCA (Aug. 6, 2004) at 15, filed in response to Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257 (2004).

<sup>2</sup> *Accord*, AT&T at 1.

<sup>3</sup> Western Wireless and CTIA, for instance, focus on modifications to a system that would guarantee basic dial tone service. The Joint Board and Commission will likely

## **II. Rural ILECs are Not Primarily Responsible for High Cost Fund Growth.**

Growth in high cost funding —the underlying concern in this and the related Eligible Telecommunications Carrier (ETC) Designation proceeding<sup>4</sup>— is not being caused by the rural ILECs that depend on these mechanisms to deliver supported services to rural America. Some commenters in this proceeding would have the Joint Board believe that the Fund is in a death spiral, supposedly because of the way that support is calculated for rural ILECs.<sup>5</sup> They present selective data in an attempt to place the blame for Fund growth on ILECs. The data show, however, that ILEC costs, far from being uncontrolled, instead are simply keeping pace with the GDP-CPI.<sup>6</sup>

Both CTIA and Western Wireless continue to highlight a period of time that reflects changes to high cost support caused by the conversion from implicit (via access charge components) to explicit support mechanisms (via ICLS and IAS).<sup>7</sup> While these dollars may have been new to the Fund, they certainly were not caused by increases in ILEC costs.<sup>8</sup> A closer examination of the post-conversion period, including the most

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want to review soon whether high speed and advanced services ought to be considered among the supported services to which rural Americans ought to have access.

<sup>4</sup> See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257 (2004).

<sup>5</sup> See, e.g., Dobson at 3; CTIA at 3-4; Western Wireless at 7-8.

<sup>6</sup> NECA at 9-10.

<sup>7</sup> CTIA at 3-4; Western Wireless at 7-8.

<sup>8</sup> The FCC modified its access charge rules during this period to remove implicit subsidies from the rates charged by incumbent local exchange carriers. It created two new explicit high cost universal service support mechanisms, Interstate Access Support (IAS) for price cap carriers in 2001, and Interstate Common Line Support for rate of return carriers in 2002. Together, these two programs shifted approximately \$1 billion from incumbent local exchange carrier access charges to universal service support in 2003.

recent USAC data for 1Q-2005,<sup>9</sup> reveals that growth in real dollars is caused overwhelmingly by increases in payments to competitive ETCs, with the great majority of CETC support going to wireless providers. In fact, as shown below, more than 81 cents of every dollar in growth over the last eight quarters is attributable to increases in CETC support:

<b>Rural High Cost Quarterly Support</b>				
<b>Quarter</b>	<b>Incumbent Support</b>	<b>Change</b>	<b>CETC Support</b>	<b>Change</b>
2Q2003	\$ 602,258,022		\$ 26,097,915	
3Q2003	\$ 607,062,558	\$ 4,804,536	\$ 49,524,393	\$ 23,426,478
4Q2003	\$ 609,023,493	\$ 1,960,935	\$ 49,342,152	\$ (182,241)
1Q2004	\$ 609,950,978	\$ 927,485	\$ 75,668,148	\$ 26,325,996
2Q2004	\$ 610,370,955	\$ 419,977	\$ 90,214,824	\$ 14,546,676
3Q2004	\$ 631,297,007	\$ 20,926,053	\$ 108,030,512	\$ 17,815,688
4Q2004	\$ 632,573,495	\$ 1,276,488	\$ 105,606,588	\$ (2,423,924)
1Q2005	\$ 621,638,913	\$ (10,934,582)	\$ 109,762,117	\$ 4,155,529
<b>Total Change</b>		<b>\$19,380,892</b>		<b>\$83,664,203</b>

### **III. Existing Data Review Procedures Provide Reasonable Assurance that High Cost Data are Accurately Reported.**

Some commenters in this proceeding seek to advance the myth that rural LECs operate with no regulatory scrutiny and that USF dollars are being wasted. Nextel, for example, asserts (at 4) that carriers that receive high cost support “are able to bury

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*See, e.g.,* NECA at 10, GCI at 8. *See also,* D. Lehman, “False Premises, False Conclusions: A Response to an Attack on Universal Service” (white paper submitted by NTCA and OPASTCO as an ex parte in CC Docket No. 96-45 on Aug. 5, 2004) at 3-6.

<sup>9</sup> USAC, <http://www.universalservice.org/overview/filings/>. The totals reflect funding requirements for both those CETCs that have been granted ETC status and those that have filed data with USAC but have not yet been granted ETC status. The funding requirement of each set of carriers is included in USAC’s calculation of industry contribution requirements.

inefficiencies in their cost models.” Dobson asserts (at 7) that it is important to consider whether the costs rural LECs report “are prudently incurred and accurately reported” and urges the Commission to undertake “investigations or audits” of rural ILEC costs. In the same vein, Western Wireless complains (at 14) that High Cost Fund mechanisms “are based on [rural LEC] self-reported accounting records that have never been audited or scrutinized by independent auditors or regulators.” CTIA lists similar concerns relating to ILEC cost data reliability and suggests that the Commission revise its rules so as to require ILECs to submit cost data directly to USAC rather than initially to NECA.<sup>10</sup>

Concerns over the reliability of LEC cost data are unfounded. ILEC high cost data is subject to intense scrutiny by company internal and external accountants, consultants, state regulators, NECA, USAC and the FCC. Anecdotal reports of instances involving perceived waste or abuse, while of concern, do not demonstrate that the program lacks overall integrity. Rather, they may demonstrate a need for additional assurance via targeted audits.

CTIA’s concerns about NECA’s USF data collection procedures are particularly misplaced. Contrary to CTIA’s claims,<sup>11</sup> NECA procedures are subject to annual reviews by NECA’s independent auditors pursuant to Statement of Auditing Standards (SAS) 70, and the results of these audits are provided to the Commission each year. NECA’s processes have been audited by USAC, and agreed-upon procedures audits of NECA

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<sup>10</sup> CTIA at 13-14.

<sup>11</sup> According to CTIA, administrative complexity associated with the current USF rules make it difficult for USAC to audit incumbent LEC cost data, a problem that it supposedly compounded by the fact that ILECs submit data to NECA not USAC. In CTIA’s view, this makes the data less reliable because FCC rules do not specify annual audits of NECA and because NECA data collection procedures supposedly are not subject to sufficient scrutiny.

USF data processes have also been conducted by USAC's external auditors. NECA procedures have also been reviewed by the Commission's external auditors.<sup>12</sup>

CTIA is also mistaken in its assertion that the USF data NECA provides to USAC and the Commission are somehow incomplete or do not include underlying support information. In fact, NECA provides USAC and the Commission with all of the high cost loop data it receives from ILECs pursuant to the Commission's Part 36 rules.<sup>13</sup> Before submitting such data, NECA undertakes a review of submitted information, and requires that companies resolve inconsistencies and apparent data errors prior to reporting the information to the Commission. This additional review step substantially improves data integrity and does not in any way inhibit similar or additional reviews by USAC and the Commission because, as noted above, the same data are provided as part of NECA's periodic data submissions.

In other words, current rules and procedures governing submission of high cost loop data add substantial assurance that the information on which support payments is based is accurate. Given concerns expressed by commenters about potential data

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<sup>12</sup> Currently NECA is working cooperatively with the FCC's Office of Inspector General to perform process surveys in NECA's Region offices. The Commission has also indicated that it is considering auditing as many as 250 recipients of high cost support in FY 2005. FCC Office of Inspector General FY 2005 Audit plan (October 1, 2004 – September 30, 2005).

<sup>13</sup> NECA compiles an annual USF data report based on information provided by ILECs pursuant to Part 36 of the Commission's rules and submits this report to USAC and the Commission on or about October 1 of each year. *See, e.g.*, NECA Annual USF Data Submission, October 2004. Contrary to CTIA's claims, this submission contains all data obtained from companies. NECA also provides (to the Commission since 1993, to USAC since its inception) line-item detail data underlying these annual USF submissions. Further, NECA in 2004 began providing to USAC the detail information associated with the quarterly updates NECA submits to USAC. Thus, both USAC and the Commission have complete access to ILEC USF data submissions.

inaccuracies, it would seem illogical at this stage to reduce the number of entities responsible for reviewing high cost loop data, yet that is precisely the result that would occur should the Commission adopt CTIA's suggestions. Accordingly, the Joint Board should not recommend changes to rules governing data reporting procedures.

#### **IV. Conclusion**

For the foregoing reasons, the Joint Board should 1) decline to recommend at this time substantial changes to the current embedded cost-based federal universal service mechanisms that ensure specific, predictable, and sufficient support necessary for carriers operating in high cost areas; and 2) decline to recommend changes to current cost data collection and analysis procedures.

Respectfully submitted,

**NATIONAL EXCHANGE CARRIER  
ASSOCIATION, INC.**

By: /s/ Richard A. Askoff  
Richard A. Askoff  
Clifford C. Rohde  
*Its Attorneys*

80 S. Jefferson Rd.  
Whippany, NJ 07981  
Tel. +1 973/884-8000



## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the NECA's Reply Comments was served this 14<sup>th</sup> day of December 2004, by electronic filing and first class mail, to the persons listed below.

By: /s/ Elizabeth R. Newson  
Elizabeth R. Newson

The following parties were served:

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
(via ECFS)

Sheryl Todd  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Best Copy and Printing, Inc.  
Room CY-B402  
445 12th Street, S.W.  
Washington, DC 20554